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IN THE  
**SUPREME COURT OF THE  
UNITED STATES**

October Term, 1944

**Nos. 379 and 380**

COLORADO INTERSTATE GAS COMPANY  
a Corporation, PETITIONER

v.

FEDERAL POWER COMMISSION, CITY AND COUNTY  
OF DENVER, COLORADO, PUBLIC SERVICE COM-  
MISSION OF WYOMING, COLORADO-WYOMING  
GAS COMPANY, PUBLIC SERVICE COMPANY OF  
COLORADO, AND CANADIAN RIVER GAS COM-  
PANY, RESPONDENTS.

CANADIAN RIVER GAS COMPANY,  
a Corporation, PETITIONER,

v.

FEDERAL POWER COMMISSION, CITY AND COUNTY  
OF DENVER, COLORADO, PUBLIC SERVICE COM-  
MISSION OF WYOMING, COLORADO-WYOMING  
GAS COMPANY, PUBLIC SERVICE COMPANY OF  
COLORADO, AND COLORADO INTERSTATE GAS  
COMPANY, RESPONDENTS.

ON PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES  
CIRCUIT COURT OF APPEALS FOR THE TENTH CIRCUIT.

*Motion of City and County of Denver to Dismiss Writs of  
Certiorari and for Order of Distribution of Monies together  
with Brief in support thereof.*

MALCOLM LINDSEY, 353 Municipal Bldg., Denver 2, Colo.  
THOMAS H. GIBSON, 353 Municipal Bldg., Denver 2, Colo.  
*Attorneys for Respondent, City and County of Denver.*

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GAS COMPANY, PUBLIC SERVICE COMPANY OF  
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COMPANY, RESPONDENTS.

BRIEF OF THE CITY AND COUNTY OF DENVER,  
SUGGESTING THAT THE COURT BELOW WAS  
WITHOUT JURISDICTION OVER THE SUBJECT  
MATTER.

MOTION OF THE CITY AND COUNTY OF DENVER  
TO DISMISS WRITS OF CERTIORARI AND FOR  
ORDER DIRECTING DISTRIBUTION OF MONIES.

To the Honorable Chief Justice and Associate Justices  
of the Supreme Court of the United States:

The City and County of Denver, respondent in the above entitled causes, by its counsel of record, moves the Court that the writs of certiorari herein be dismissed, and that the Tenth Circuit Court of Appeals be ordered to distribute the monies now on deposit and that hereafter shall be deposited under the terms of that certain stay order that was entered by said Court in said causes on May 16, 1942; and as grounds for said motion said respondent shows to the Court:

1. That the questions upon the merits which the petitioners herein seek to raise are not presented for review by the Supreme Court of the United States for the reason that the Tenth Circuit Court of Appeals for the Tenth Circuit was without jurisdiction over the subject matter of the petitions for review that appear in the record herein as more fully appears in the brief that is filed herewith.

2. That on May 16, 1942, in compliance with the prayer of a petition filed April 20, 1942, by petitioners in said Tenth Circuit Court of Appeals for an order staying the order of the Federal Power Commission in said causes, said Court entered a certain stay order in cause numbered 2550 in said Court, which is the same cause in which the writ of certiorari has been granted in the above entitled cause No. 279. (R.V.I. pp. 115-119).

That under and in accordance with the terms and conditions of said stay order there is now on deposit in the First National Bank of Denver, Colorado, between five and six millions of dollars that are subject to the "further order or orders" of said Tenth Circuit Court of Appeals as in said stay order provided, and the sums of money that are thereby required to be deposited are regularly being deposited in the amounts and at the times therein specified.

WHEREFORE, this respondent moves the Court that said writs of certiorari be dismissed; that said Tenth Circuit Court of Appeals be ordered to distribute said monies that have been and shall be deposited in said bank or elsewhere, in accordance with the terms and conditions of said order.

MALCOLM LINDSEY,  
353 Municipal Building,  
Denver 2, Colorado.

THOMAS H. GIBSON,  
353 Municipal Building,  
Denver 2, Colorado.

*Attorneys for said City and County, Respondent.*

I, Thomas H. Gibson, of the City and County of Denver, State of Colorado, being one of the counsel for the above named respondent, do hereby certify that the foregoing motion is, in my judgment, well founded in law, and that the same is presented in good faith and not for delay.

THOMAS H. GIBSON,  
*Attorney for Respondent, City and County of Denver.*